



## Agenda

Election Code Committee

April 24, 2024 – 4:30 PM

CIC Conference Room, City Hall, 300 Laporte Ave and via Zoom

<https://fcgov.zoom.us/j/98639152564>

Remote Participation Available

**A) Call Meeting to Order**

**B) Roll Call**

**C) Public Participation**

**D) Public Participation Follow-up**

**E) Approval of Minutes**

**1. Approval of Minutes.**

The purpose of this item is to approve the minutes of the March 27, 2024, Election Code Committee meeting.

**F) Discussion / Informational Items**

**2. Potential Charter Amendments.**

The purpose of this item is to present potential Charter amendments to the following Articles:

1. Article VIII – Elections
2. Article IX – Recall
3. Article X – Initiative and Referendum

**3. 2024 Workplan.**

**G) Review of Upcoming Calendar**

**H) Other Business**

**I) Adjournment**

Next Scheduled Committee Meeting: May 29, 2024 at 4:30 p.m. (tentative)

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*A solicitud, la Ciudad de Fort Collins proporcionará servicios de acceso a idiomas para personas que no dominan el idioma inglés, o ayudas y servicios auxiliares para personas con discapacidad, para que puedan acceder a los servicios, programas y actividades de la Ciudad. Para asistencia, llame al 970.221.6515 (V/TDD: Marque 711 para Relay Colorado). Por favor proporcione aviso previo cuando sea posible. Las solicitudes de interpretación en una reunión deben realizarse antes del mediodía del día anterior.*

April 24, 2024

## AGENDA ITEM SUMMARY

Election Code Committee



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### STAFF

Heather Walls, Interim City Clerk

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### SUBJECT

**Approval of Minutes.**

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### EXECUTIVE SUMMARY

The purpose of this item is to approve the minutes of the March 27, 2024, Election Code Committee meeting.

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### ATTACHMENTS

1. Draft Minutes, March 27, 2024

March 27, 2024

**ELECTION CODE COMMITTEE MEETING**

**4:30 PM**

COMMITTEE MEMBERS PRESENT: Arndt, Pignataro, Canonico

STAFF PRESENT: Rita Knoll, Rupa Venkatesh, Sara Arfman, Tyler Robbins, Carrie Daggett, Kelly DiMartino

**1. CALL MEETING TO ORDER**

**2. ROLL CALL**

**3. ELECTION OF CHAIR**

*Mayor Arndt made a motion, seconded by Councilmember Pignataro, to elect Councilmember Canonico as Chair.*

Councilmember Canonico accepted the nomination.

*The motion was adopted by unanimous consent.*

**4. PUBLIC PARTICIPATION**

Robbie Moreland suggested the Committee should add the topic of yard sign placement to its meeting to help clarify the rules relative to elections and provide specific guidance to candidates. Additionally, Moreland suggested the Committee also consider implementing public funding of elections, like Boulder's dollar for dollar matching program, if it considers raising campaign limits. Moreland also encouraged the Committee to continue the discussion on creating a quasi-judicial election oversight board which could include retired judges, lawyers, and interested community members.

Kathleen Schmidt encouraged the Committee to consider forming an election oversight committee or commission with quasi-judicial powers to help ease the burden on the City Attorney's Office and City Clerk's Office.

Nick Armstrong concurred with Moreland and commented on the importance of public election funding to help candidates who may need assistance with technical aspects of their campaign they may not be able to do themselves. Armstrong commented on the Fort Collins Voter Guide that was assembled by community members.

Jody Deschenes discussed her complaint about 'paid for by' information not being included on an issue committee's campaign materials, specifically yard signs in November of 2022.

Brian Tracy stated petitions and initiatives are a Constitutional right and those processes should not be made more difficult. Tracy also suggested the Committee should find a way to eliminate any sources of dark money backing candidates in local elections to decrease the influence of anonymous wealthy donors.

**5. PUBLIC PARTICIPATION FOLLOW-UP**

Mayor Arndt concurred with the comments related to yard signs and stated it is worth looking into an election oversight board. Additionally, she noted there are no plans to change the petition process.

Councilmember Pignataro asked about the 2022 yard sign complaint outcome. City Attorney Daggett replied an outside attorney is frequently used for those reviews and that attorney's review showed that it was technically a violation and did not meet the complete requirement of the Code, but that there was an effort to identify the source of the sign funding and it was not such a flagrant violation that it would merit prosecution.

Councilmember Pignataro stated her recollection was that the issue was related more to negligence than a nefarious actor.

City Attorney Daggett noted that as these issues come up, it does help flag ways the information the City is providing can help people do better at getting things done properly.

Councilmember Pignataro stated she is curious about an oversight board and would like to hear about experiences of other municipalities if that idea moves forward. She asked if there are any responsibilities around candidate finances or behaviors that fall to the County given the new joint elections. Chief Deputy City Clerk Rita Knoll replied in the negative.

Chair Canonico noted there were some clean up issues with the petitions that may need to be addressed.

## 6. APPROVAL OF MINUTES

None.

## 7. PLANNING FUTURE WORK FOR THE ELECTION CODE COMMITTEE

Rupa Venkatesh, Assistant City Manager, reviewed the history of the Election Code Committee (ECC) noting it became permanent in 2017.

Rita Knoll, Chief Deputy City Clerk, outlined some of the accomplishments of the ECC for 2023, including redistricting, updates to the campaign finance provisions, the voter-approved switch to joint November elections and the implementation of ranked choice voting beginning in 2025. She noted there is an ongoing list of accomplishments of the Committee for each year. Additionally, Knoll noted there were items on the 2023 work plan that did not move forward, including public financing of elections, the election oversight board, and the possibility of switching to partisan elections.

Mayor Arndt noted the Committee decided not to move forward with partisan elections.

Chair Canonico thanked Knoll for all the work she has done with the Committee and elections in general.

Assistant City Manager Venkatesh noted Tyler Robbins will be joining the Clerk's Office on the elections side, particularly with campaign reports.

Assistant City Attorney Sara Arfman provided a list of items for future work of the Committee, including one state bill that would allow the Secretary of State to review complaints with which the City has a conflict, potential increases to contribution limits, adding an offramp for campaign finance complaints to allow a violator to pay a fine rather than go to Municipal Court, and looking into the concept of the write-in candidate as well as looking at the number of signatures required for candidate nomination forms.

Knoll stated additional topics added to the list include initiative and referendum processes, who prepares the packet for circulation, some potential charter amendments related to the requirement to include the full text of the referred ordinance, timelines for review of the signed petitions, discussing ranked choice voting implementation and education program, adjusting the Council vacancy process, and the requirements for financial disclosure from someone who is leaving office.

Councilmember Pignataro asked how the priority around the Charter is going to be implemented. She expressed concern about forming a work plan that may be derailed by how many changes will need to be considered due to Charter cleanup. City Attorney Daggett stated it could be thought of as something to try to avoid overlap with, because if the Charter cleanup is not going to be policy changes, but more reconciling inconsistencies, it may be determined that some of the items on this list should go to that process, with the other issues that are more policy-related in terms of changes to how things are working being separate.

Mayor Arndt noted with ranked choice voting, it needs to be made clear that one does not need to be nominated to be elected if write-in candidates are going to remain. She noted the Charter currently states

must be nominated and elected to serve. City Attorney Daggett noted there is some room for interpretation of the Charter provision, but she concurred the language should be clarified.

City Attorney Daggett noted Charter amendments must be put on the ballot by ordinance, which would put the second meeting in August as the last date for second reading. She stated those types of items would be anything related to candidates and potentially the petition and referendum items. Additionally, City Attorney Daggett stated there will be some issues around how an election oversight board would get its authority, and under what type of code that would occur.

Mayor Arndt suggested the Committee first consider all items that would need a Charter amendment due to the ballot timeline, including the vacancy process, recall provisions, nomination signatures, write-in candidates, and the referendum process.

City Attorney Daggett stated one question related to a voter guide is that there is a lot of concern, generally, about what the City should be saying to voters about the ballot to ensure neutrality. She stated there is potentially some benefit in discussing whether to place something in the Charter that would clearly authorize or direct something like that.

Members discussed having a running list of items for the Committee to consider, as has been done in the past.

Chair Canonico stated she has recently been asked when the \$75 and \$100 donation limits were put in place for campaigns.

Councilmember Pignataro stated public financing of elections is interesting to consider and suggested it could be considered even if donation limits are raised.

Chair Canonico suggested time is still needed to analyze the big changes that occurred as part of the last Committee's work and stated she would like to postpone consideration of public financing of elections and concentrate on cleanup and other things before that.

Members agreed there is interest in looking at contribution limits and updating reporting requirements.

Members discussed options for the required number of signatures for nomination.

## **8. REVIEW OF UPCOMING CALENDAR**

Assistant City Manager Venkatesh requested input as to how often the Committee would like to meet. Chair Canonico replied monthly meetings should occur until July with the possibility of changing the cadence after that time.

## **9. OTHER BUSINESS**

None.

## **10. ADJOURNMENT**

The meeting was adjourned by unanimous consent at 5:45 p.m.

April 24, 2024

# AGENDA ITEM SUMMARY

## City Council



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### STAFF

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Rupa Venkatesh, Assistant City Manager  
Heather Walls, Interim City Clerk  
Rita Knoll, Chief Deputy City Clerk  
Tyler Robbins, Business Analyst I/Elections  
Sara Arfmann, Legal  
Carrie Daggett, Legal

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### SUBJECT

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**Potential Charter Amendments.**

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### EXECUTIVE SUMMARY

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The purpose of this item is to present potential Charter amendments to the following Articles:

1. Article VIII – Elections
2. Article IX – Recall
3. Article X – Initiative and Referendum

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### GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

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1. What Charter amendments do committee members want to present to Council for placement on the November ballot?

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### BACKGROUND / DISCUSSION

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At the March Election Code Committee meeting, members planned to focus on Charter amendments as its first item of business to ensure the amendments are ready for the November ballot.

#### Timing

For ballot questions to be prepared for the September 6 deadline, the committee will discuss potential Charter amendments on April 24 and May 29 (tentatively) to be presented for first reading on June 18, 2024 and second reading on July 2. This timing provides a buffer should the committee or Council need additional discussion or have unanticipated delays.

## **Article VIII. Elections**

- Section 3 – Time frame for circulation and submittal of nominating petitions shall not be changed within 180 days.
- Section 4 – Sufficiency of petition notification within 5 working days.
- Section 7 – Timing relating to certification of election results.

## **Article IX. Recall**

- Section 1(b) – Specify timeframe Clerk will send affidavit to affected officer; increase time to file statement in defense of charges from 5 to 10 days; revise language related to timing to file petition.
- Section 1(c) – Update various timing requirements to call election.
- Section 2(b) – Move section portion of section 2(f) to new section 2(b)(3) to designate the number of petition representatives allowed.
- Section 2(e)(1) – Remove holdover language from when we had multiple seats elected in the same race.
- Section 2(f) – Update timing to file petitions.
- Section 2(g) & (h) – This paragraph is broken up into subsections and new subsection relating to Protest added.
- Section 2(i) – Naming the section Certification and presentation to Council and adding special meetings as possibility for certification.
- Change name of Section 3 to Recall Elections from Elections.
- Section 3(e) – Clarify the newly elected candidate will take office at the next regular meeting after the election is certified; candidate qualification within 30 days of certification.

## **Article X. Initiative and Referendum**

- Section 1(d) – Update timing to file prior to next election.
- Section 1(e) – Paragraph broken into subsection areas; various timing and language updates
- Section 2(b) – Clarification of timing.
- Section 2(d) – Update timing to circulate to 21 calendar days.
- Section 2(e)(2) – Clarifying language relating to Action by Council after petition certification.
- Section 3 – Revision to language relating to referring an ordinance or resolution to the voters.
- Section 5(b)(2)(b) – Updates relating to general statement of purpose on initiative petition.
- Section 5(b)(2)(c) – Add language to not include exhibits over a certain number of pages with the ordinance to be referred and include a statement from the Clerk where said exhibit may be found. Also, consideration of ordinances themselves over a certain number of pages.
- Section 5(d)(1) – Clarifying language relating to the required information on the circulator affidavit.
- Section 5(f)(1) – Revise the number of days the Clerk has to examine the petition to 15 calendar days.
- Section 5(f)(2)(i)(B) – Revise number of days the Clerk has to examine an amended initiative petition to 10 days.
- Section 5(f)(2)(ii)(B) – Update time to certify amended referendum petition to 10 days.
- Section 5(f)(3)(i) – Revise the number of days to file a protest to 5 business days of preliminary determination of sufficiency.

- Section 5(f)(3)(ii) – Revise language relating to the protest hearing and the time frame to hold the protest hearing.
- Section 5(f)(3) – Revise language and timing relating to the notice of protest hearing.
- Section 6(c)(2) – Additional language relating to a portion of an ordinance being referred rather than the entire ordinance.

## **ATTACHMENTS**

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1. Article VIII (redlined)
2. Article IX (redlined)
3. Article X (redlined)
4. Presentation



## APRIL ELECTION CODE COMMITTEE DRAFT FOR DISCUSSION

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### ARTICLE VIII. ELECTIONS

#### Section 1. Applicability of state constitution.

The Council shall provide by ordinance for the manner of holding city elections. All ordinances regarding elections shall be consistent with the provisions of this Charter and the state Constitution. Any matter regarding elections not covered by the state Constitution, this Charter or ordinance of the Council shall be governed by the laws of the State of Colorado relating to municipal elections, or coordinated municipal elections, as applicable.

(Res. No. 71-12, 2-11-71, approved, election 4-6-71; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 080, 2022, § 2, 7-5-22, approved, election 11-8-22; Ord. No. 081, 2022, § 2, 7-5-22, approved, election 11-8-22)

#### Section 2. City elections.

A regular city election shall be held on the first Tuesday in November of every odd-numbered year. All other municipal elections shall be known as special city elections and shall be called by ordinance and shall be held in accordance with the provisions of this Charter and any ordinances adopted pursuant thereto. All municipal elections shall be nonpartisan.

In order to implement a change of regular city elections from April of each odd-numbered year to November of each odd-numbered year, the term of the Mayor and each Councilmember shall be extended to such time as a successor elected in November of the appropriate odd-numbered year (consistent with Article II, Section 1(b)) takes office, unless otherwise ended due to an event of vacancy or recall. Such change in term length shall have no effect on the number of terms any such officer may be elected under the applicable term limits.

(Ord. No. 23, 1981, 2-17-81, approved, election 4-7-81; Ord. No. 201, 1986, § 1, Part B, § 2, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 154, 1988, 12-20-88, approved, election 3-7-89; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 081, 2022, § 2, 7-5-22, approved, election 11-8-22)

#### Section 3. Nomination; withdrawal from nomination.

Any person who is qualified at the time of nomination for the office to be filled may be nominated for the elective office by petition. A nominating petition for the office of Mayor shall be signed by not less than twenty-five (25) registered electors. A nominating petition for District Council office shall be signed by not less than twenty-five (25) registered electors residing in that District. A registered elector may sign one (1) petition for each office for which the elector is entitled to vote at the election. If an elector should sign more petitions than entitled, said elector's signature shall be void as to all petitions which the elector signed.

Nominating petitions must be filed with the City Clerk. The Council shall enact an ordinance specifying the time frame for circulation and submittal of nominating petitions and the deadline for withdrawal from candidacy for municipal office. Such time frame shall not be changed within **one hundred eighty (180)** days immediately prior to the election. No nominating petition shall be accepted unless the candidate completes a verified acceptance of the nomination certifying that he or she is not a candidate, directly or indirectly, of any political party, and that he or she meets the qualifications for office and will serve if elected.

## APRIL ELECTION CODE COMMITTEE DRAFT FOR DISCUSSION

A person who has been nominated may withdraw from candidacy by filing a written request to do so with the City Clerk before the deadline established by Council ordinance for such withdrawal, and no name so withdrawn shall be placed upon the ballot.

(Ord. No. 12, 1977, 2-15-77, approved, election 4-5-77; Ord. No. 201, 1986, § 1, Part E, § 3, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 081, 2022, § 2, 7-5-22, approved, election 11-8-22)

### Section 4. Petitions.

- (a) Form; circulation. The Council shall prescribe by ordinance, upon recommendation of the City Clerk, the form for a nominating petition which shall include such warnings and notices to signers as may be deemed appropriate by the Council, as well as the candidate's verified acceptance of nomination. The signatures on a nominating petition need not all be subscribed on one (1) page, but to each separate section of the petition there shall be attached a signed statement of the circulator thereof, stating the number of signers on that section of the petition, and that each signature thereon was made in the circulator's presence and is the genuine signature of the person whose name it purports to be. When executed, such statement shall be accepted as true until it shall be proved false. If any portion is proved false, that portion of any petition shall be disregarded. Following each signature on the petition of nomination shall be written the printed name and the residence address of the signer, and the date of signing. All nominating papers comprising a petition shall be filed as one (1) instrument.
- (b) Sufficiency of petition. Upon receipt of a nominating petition, the City Clerk shall forthwith examine the petition, and within **five (5) working** days after the filing of the petition, notify the candidate in writing of the results of the examination, specifying the particulars of insufficiency, if any. Within the regular time for filing petitions, an insufficient petition may be amended and filed again as a new petition, in which case the time of the first filing shall be disregarded in determining the validity of signatures thereon, or a different petition may be filed for the same candidate. The petition for each candidate elected to office shall be preserved by the City Clerk until the expiration of the terms of office for such person.
- (c) No person shall receive any compensation whatever for signing a nominating petition.

(Ord. No. 12, 1977, 2-15-77, approved, election 4-5-77; Ord. No. 201, 1986, § 1, Part E, § 4, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 158, 1988, 12-20-88, approved, election, 3-7-89; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 005, 2015, § 1, 1-20-15, approved, election of 4-7-15 )

### Section 5. Board of Elections for City-administered elections.

There is hereby created a Board of Elections consisting of the City Clerk, Chief Deputy City Clerk, and Chief Judge. The Board shall be responsible for any election duties specified in this Charter and for such additional duties related to the conduct of elections by the City as may be established by the Council by ordinance.

(Ord. No. 201, 1986, § 1, Part H, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 022, 2007, §1, 2-20-07, approved, election 4-3-07; Ord. No. 015, 2021, § 2, 1-19-21, approved, election 4-6-21; Ord. No. 081, 2022, § 2, 7-5-22, approved, election 11-8-22)

APRIL ELECTION CODE COMMITTEE DRAFT FOR DISCUSSION

Section 6. Appearance of names on ballot.

Every ballot shall contain the names of all duly nominated candidates for offices to be voted for at that election, except those who have died or withdrawn. The names shall be arranged in alphabetical order of surname for each office, and shall not contain any title or degree designating the business or profession of the candidate. The candidate's name may be a nickname, but shall not include any punctuation marks setting out the nickname.

(Ord. No. 129, 1999, § 1, 8-17-99, approved, election 11-2-99)

Section 7. Certification of election results.

- (a) No later than the date specified by Council by ordinance and, after verifying the total number of legal votes cast for each candidate and measure voted upon, the Board of Elections shall complete a certificate declaring the results of the election. The candidate receiving the highest number of votes for a particular office, as determined pursuant to this Section 7, shall be declared elected to that office. In event of a tie, the selection shall be made by the Board of Elections by lot after notice to the candidates affected. In case the candidate elected fails to qualify within sixty (60) by no later than 30 working days after the date of issuance of the certificate of election, tabulation of results in that contest shall be rerun with the disqualified candidate being eliminated prior to any tabulation and the candidate with the resulting highest vote shall be elected, and the candidate failing to qualify shall forfeit his or her office whether or not such candidate has taken the oath of office. If there is no other elected successor who qualifies, the office shall be deemed vacant, and shall be filled by appointment by the remaining members of the council, as provided in Article II, Section 18. In the event of a mandatory recount or recount by request, the Board of Elections shall complete an amended certificate declaring the results of the election by no later than the fifth day five (5) working days after the completion of the recount.
(b) For coordinated city elections (which are not administered by the City), the election shall be determined and certified and any tie vote or recount shall be administered, as provided in the applicable state law. The candidate receiving the highest number of votes for a particular office, as determined pursuant to Section 7(c), shall be declared elected to that office.
(c) Ranked voting methods. Beginning in 2025, the candidate receiving the highest number of votes for a particular office will be determined using a ranked voting method.
(1) For a City-administered election, the ranked voting method will be in accordance with specifications adopted by the City Council by ordinance.
(2) For a coordinated election, the ranked voting method will be in accordance with, and as provided by, applicable state law.

Commented [CD1]: Suggesting a shorter timeframe for this; other jurisdictions tend to have shorter windows for it.

(Ord. No. 197, 1986, § 1, Parts C, M, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Parts V, W, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 129, 1999, § 2, 8-17-99, approved, election 11-2-99; Ord. No. 022, 2007, §1, 2-20-07, approved, election 4-3-07; Ord. No. 001, 2017, § 2, 1-17-17, approved, election 4-4-17; Ord. No. 080, 2022, § 2, 7-5-22, approved, election 11-8-22; Ord. No. 081, 2022, § 2, 7-5-22, approved, election 11-8-22)

Section 8. Campaign contributions.

The Council shall act by ordinance to establish a limit on the amount that any person or entity may contribute in support of a candidate for Council on the ballot at any city election.

## APRIL ELECTION CODE COMMITTEE DRAFT FOR DISCUSSION

No political party or city employee, directly or indirectly, and no public service corporation, nor any other person, firm or corporation, owning, interested in, or intending to apply for any franchise or contract with the city shall contribute or expend any money or other valuable thing, directly or indirectly, to assist in the election or defeat of any candidate.

(Ord. No. 6, 1980, 1-16-80, approved, election 2-26-80; Ord. No. 208, 1984, 1-15-85, approved, election 3-5-85; Ord. No. 201, 1986, § 1, Part M, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Parts V, W, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 129, 1999, § 2, 8-17-99, approved, election 11-2-99)

### Section 9. Corrupt practices.

Any person who violates at a city election any state law, provision of this Charter or ordinance of the city shall, upon conviction thereof, be disqualified from holding any city position or employment for two (2) years, or any elective city office for four (4) years.

(Ord. No. 201, 1986, § 1, Parts J, M, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Parts V, W, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 129, 1999, § 2, 8-17-99, approved, election 11-2-99)

**Commented [CD2]:** Note difference from Article IX, Section 1(d) regarding 2-year disqualification if recalled

### Section 10. Validity of City-administered elections.

No City-administered election shall be invalidated if it has been conducted fairly and in substantial conformity with the requirements of this Charter.

(Ord. No. 201, 1986, § 1, Part M, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Parts V, W, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 129, 1999, § 2, 8-17-99, approved, election 11-2-99; Ord. No. 081, 2022, § 2, 7-5-22, approved, election 11-8-22)

### Section 11. Further regulations.

The Council may, by ordinance, make such further rules and regulations as are consistent with this Charter and the Colorado Constitution in order to carry out the provisions of this Article.

(Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 129, 1999, § 2, 8-17-99, approved, election 11-2-99)

## APRIL ELECTION CODE COMMITTEE DRAFT FOR DISCUSSION

## ARTICLE IX. RECALL

## Section 1. The recall.

- (a) Power. Any elective officer of the city may be recalled from office, through the procedure and in the manner provided herein, by the registered electors entitled to vote for a successor of such incumbent officer. For purposes of this Article, in the case of recall of the Mayor, the words "registered elector" shall be construed to mean persons residing within the city who are registered to vote as of the date they signed the petition for recall. For purposes of this Article, in the case of a proposed recall of District Council representatives, the words "registered elector" shall be construed to mean persons who are registered to vote within the particular affected Council District of the city as of the date they signed the petition for recall of the District Council representative. No recall petition shall be circulated or filed against any officer until the officer has actually held office for at least one (1) year in the officer's current term, nor within six (6) months of the end of such term. The procedure to effect a recall shall be as provided in this Article.
- (b) Commencement of proceedings; affidavit. One (1) or more registered electors may commence recall proceedings by filing with the City Clerk an affidavit of not more than two hundred (200) words stating the reasons for the recall of the officer sought to be removed. A separate affidavit shall be filed for each officer sought to be recalled. **Within forty-eight (48) hours** after the filing of the affidavit, the City Clerk shall mail a copy by certified mail to the affected officer. ~~Within~~ **No later than five (5) ten (10) working** days after the date of the City Clerk's mailing, the affected officer may file with the City Clerk a sworn statement of not more than three hundred (300) words in defense of the charges. The affidavit and the response are intended for the information of the registered electors, who shall be the sole and exclusive judges of the sufficiency of the ground or grounds assigned for the recall, and said ground or grounds shall not be open to judicial review. ~~Within~~ **No later than ten (10) working days after** the date by which any statement in defense must be filed, a petition for recall of the officer shall be submitted to the City Clerk for approval of the form of the petition in accordance with Section 2(b) of this Article. The petition shall be circulated, signed, verified and filed in the manner provided in Section 2 of this Article. If no petition for recall has been submitted to the City Clerk for approval of its form within the time period specified above, the recall proceedings shall be terminated.
- (c) Call of election. A recall election shall be for the dual purposes of voting on the recall of the officer sought to be removed and the election of a successor. Upon the City Clerk's presentation of a petition certified sufficient for recall, the Council shall set a date for the election which shall be held on a Tuesday ~~not less no less than sixty (60) ninety-one (991) calendar days nor more than ninety (90) one hundred twenty-nine (11920) calendar days after from the date of presentation consideration of the certified petition to by~~ **not less no less than sixty (60) ninety-one (991) calendar days nor more than ninety (90) one hundred twenty-nine (11920) calendar days after from the date of presentation consideration of the certified petition to by** Council. However, if any other city election is to occur within ~~ninety-one (991) calendar days, but not less than two hundred and thirty-eight (238) calendar days, from the presentation consideration of the certified petition to by~~ **ninety-one (991) calendar days, but not less than two hundred and thirty-eight (238) calendar days, from the presentation consideration of the certified petition to by** Council, the recall election shall be postponed and consolidated with such other city election. The ~~order ordinance~~ **order ordinance** setting a date for the recall election shall not become effective ~~until five (5) ten (10) days from the presentation of the certified petition to Council.~~ **until five (5) ten (10) days from the presentation of the certified petition to Council.** If the officer resigns ~~within the five-day ten-day period, the vacancy may be filled by appointment.~~ **within the five-day ten-day period, the vacancy may be filled by appointment.** If a vacancy occurs in the affected office after the effective date of the ~~order ordinance~~ **order ordinance**, the election to fill the vacancy shall nevertheless proceed.
- (d) Disqualification for office. No person who has been recalled or has resigned after the City Clerk's presentation to Council of a certified, sufficient petition for recall of such person shall serve the city in any elected or ~~Council~~-appointed capacity within two (2) ~~years~~ after such removal or resignation.

(Ord. No. 199, 1986, § 1, Part A, § 1, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 157, 1988, 12-10-88, approved, election 3-7-89; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. 128, 1999, § 1, 8-17-99, approved, election 11-2-99)

**Commented [CD1]:** Note difference from Art. VIII, Sec. 9 regarding 4-year disqualification for conviction for election offense.

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**Section 2. Petitions.**

- (a) Separate petitions required. A separate petition shall be circulated and filed for each officer sought to be recalled.
- (b) Form and content.
  - (1) Approval of form. No petition shall be circulated until the City Clerk has approved the form for circulation. The City Clerk shall first determine that the petition form contains only the matters required by this Article. The Council shall prescribe by ordinance, upon recommendation of the City Clerk, a general form of petition which shall contain warnings and notices to signers as necessary. The City Clerk's approval under this Section shall not constitute an approval of the content of the petition, but rather, shall start the running of the time periods provided for circulation and filing of petitions for recall.
  - (2) Statement of purpose. The petition shall be addressed to Council and shall contain or have attached to each section throughout its circulation a copy of the charges set forth in the affidavit on file with the City Clerk, and if requested by the person sought to be recalled, a copy of the statement in defense.
  - (3) Petition representatives. Each petition shall designate by name and address ~~not less than three (3) nor more than five (5)~~ registered electors who shall represent the signers of the petition in all matters affecting the petition, and shall be endorsed by such persons.
  - (4) Signatures. Only registered electors may sign the petitions authorized under this Article. Each signer must sign his or her own signature and each signature shall be followed by the printed name of the signer, the street and number address of his or her residence, and the date of signing. No person shall knowingly sign his or her name more than once for the recall of the same incumbent.
- (c) Circulation of petition. The petition may be circulated and signed in sections with each section consisting of one (1) or more sheets securely fastened at the top, provided that each section contains a full and accurate copy of the text of the petition and the names and addresses of the designated representatives for the petition. All sections shall be filed as one (1) instrument. Only persons eighteen (18) years of age or older may circulate the petition for signatures. The circulation of any petition by any medium other than personally by a circulator is prohibited. No person shall receive any compensation whatever for signing a recall petition.
- (d) Affidavit of circulator. A circulator shall attach to each section of the petition circulated, an affidavit signed by the circulator under oath before a notary public stating the following:
  - (1) the circulator's address of residence;
  - (2) that the circulator is eighteen (18) years of age or older;
  - (3) that he or she personally circulated the section;
  - (4) that each signature was affixed in the circulator's presence;
  - (5) that to the best of the circulator's knowledge and belief each signer was at the time of signing a registered elector of the city;
  - (6) that to the best of the circulator's knowledge and belief each signature is the genuine signature of the person whose name it purports to be;
  - (7) that each signer had an opportunity before signing to read the full text of the petition; and
  - (8) that the circulator has not paid or offered to pay any money or other thing of value to any signer for the purpose of inducing or causing the signer to affix his or her signature to the petition.

**Commented [CD2]:** Moved from below.

**Commented [CD3R2]:** Changed to require 3 rather than allowing 3, 4 or 5, in order to simplify this.

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A petition verified by the valid affidavits of its circulators in each of its sections shall be prima facie evidence that the signatures thereon are genuine and true.

(e) Number of signatures required.

(1) First recall attempt. The petition must be signed by registered electors equal in number to at least twenty-five (25) percent of the entire vote cast at the last preceding regular city election for all candidates for the office, to which the incumbent sought to be recalled was elected as one of the officers thereof, ~~said entire vote being divided by the number of all officers elected to such office at said election.~~

(2) Subsequent recall attempts. After one (1) recall petition and election, a recall petition filed against the same officer during the same term for which elected must be signed by registered electors equal in number to at least fifty (50) percent of the entire vote cast at the last preceding regular city election for all candidates for the office to which the incumbent sought to be recalled was elected as one of the officers thereof, ~~said entire vote being divided by the number of all officers elected to such office at said election.~~

(f) Place of filing, time limits. Petitions for recall shall be filed with the City Clerk ~~within no later than thirty (30) twenty-eight (28) calendar days of after the City Clerk's approval of the form for circulation. Each petition shall designate by name and address not less than three (3) nor more than five (5) registered electors who shall represent the signers of the petition in all matters affecting the petition, and shall be endorsed by such persons.~~

(g) Sufficiency of petition; amendment.

(1) Examination. Within ~~five (5) ten (10)~~ working days of the filing of a petition the City Clerk shall ascertain by examination of the petition and the registration books whether the petition is signed by the requisite number of registered electors and contains the required particulars and affidavits. If the petition is insufficient, the City Clerk shall so certify and forthwith notify all of the designated petition representatives in writing, specifying the particulars of insufficiency.

(2) Insufficient petition; amendment. ~~If a recall petition is deemed insufficient, whether following the initial determination by the City Clerk, or following protest proceedings, it may be amended by the submission of additional signatures collected after the City Clerk approved the form of the petition and within fourteen (14) calendar days from the filing of the Clerk's issuance of certificate of insufficiency.~~

(i) ~~Such signatures must be collected consistent with the requirements for collecting petition signatures as described in this Article.~~

(ii) ~~Within fifteen (15) days after such amendment, the City Clerk shall make examination of the amended petition and certify the result.~~

(iii) ~~If the amended petition is still insufficient, or if no amendment was made before the expiration of the time permitted for amendment, the petition shall be null and void without prejudice to the filing of a new petition for the same purpose.~~

(h) Protests.

(1) Registered electors desiring to protest the sufficiency of a petition may file a written protest, under oath, in the office of the City Clerk ~~within ten (10) five (5) working days~~ of the ~~filing of the petition~~ City Clerk's preliminary determination as to sufficiency of the petition. The protest shall set forth with particularity the grounds of protest and ~~any signatures the names and related~~ defects in form protested. The reasons assigned for recall may not be protested.

(2) Upon the filing of a written protest, the City Clerk shall set a time for hearing such protest, which shall be no more than ~~seven (7) fourteen (14)~~ days thereafter.

**Commented [CD4]:** This is holdover language from when we had multiple seats elected in the same race.

## APRIL ELECTION CODE COMMITTEE DRAFT FOR DISCUSSION

- (3) ~~At least five (5) working days before~~ the hearing, the City Clerk shall ~~send a notice of the date, time and location for the hearing~~ mail and a copy of the protest to all of the designated petition representatives, ~~the person(s) who filed the protest, and the City Council~~ together with a notice of the time for hearing.
- (4) All ~~records and protest~~ hearings shall be before a hearing officer appointed by the City ~~Clerk-Manager~~. ~~The hearing officer~~ who shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents.
- (5) All records and hearings shall be public, and all testimony shall be under oath.
- (6) The hearing shall be summary in nature and concluded ~~within thirty (30) no later than twenty-eight (28) working days~~ after the ~~petition-protest~~ was filed.
- (7) The ~~City Clerk~~ hearing officer shall decide and certify the results of the hearing ~~within no later than ten (10) days~~ after the hearing is concluded.
- (8) ~~The City Clerk shall make any final determination regarding sufficiency or insufficiency of a petition and shall base such determination on protest hearing results issued by the hearing officer.~~
- (9) ~~A petition for recall that has been deemed insufficient after protest may not be amended or circulated further and no further protest regarding the petition may be filed.~~

~~In case the petition is deemed insufficient, whether following the initial determination by the City Clerk, or following protest proceedings, it may be withdrawn and amended within fifteen (15) days from the filing of the City Clerk's certificate of insufficiency. The City Clerk shall, within five (5) days after such amendment, examine the amended petition and the registration books and certify the result. If the petition is still insufficient, or if no amendment is made, the City Clerk shall return it to one (1) of the designated petition representatives without prejudice to the filing of a new petition for the same purpose.~~

- (i) Certification and presentation to Council. When and if a petition or amended petition is deemed sufficient, whether following the initial sufficiency determination by the City Clerk in the absence of a protest, or following protest proceedings, the City Clerk shall so certify and present the certified petition to the Council at the next regularly scheduled meeting or special meeting called for this purpose. The City Clerk's certificate shall ~~then be~~ the final determination as to the sufficiency of the petition.

(Ord. No. 199, 1986, § 1, Part A, § 2, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 157, 1988, 12-20-88, approved, election 3-7-89; Ord. No. 158, 1988, 12-20-88, approved, election 3-7-89; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 88, 2000, § 1, 8-15-00, approved, election 11-7-00)

### Section 3. Recall Elections.

- (a) Generally. ~~Elections on recall~~ Recall elections shall be conducted in the same manner as provided generally for regular or special city elections in this Charter. All Charter provisions related to nomination and qualification of candidates shall apply to recall elections.
- (b) Nominations on recall. Anyone desiring to become a candidate at the recall election shall do so by nominating petition as required in Article VIII of this Charter. The deadline for filing a nominating petition for a recall election shall be as established by ordinance of the Council. If more than one (1) officer is sought to be recalled, then the nominating petition must specify which incumbent the candidate seeks to succeed. The name of the person against whom the recall petition is filed shall not appear on the ballot as a candidate for the office.



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- (c) Ballots. There shall be printed on the official ballot, as to every officer whose recall is to be voted on, the statement of grounds and, if requested by the affected officer, the officer's statement in defense followed by the words, "Shall (name of person against whom the recall petition is filed) be recalled from the office of (\_\_\_\_\_)?" Following such question shall appear the words, "Yes" indicating a vote in favor of the recall and "No" indicating a vote against such recall. On such ballots, under each question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the person sought to be recalled.
- (d) Election results. If a majority of those voting on the question of the recall of any incumbent from office votes "No," the incumbent continues in office. If a majority votes "Yes" for the incumbent's removal, the incumbent shall thereupon be deemed removed from his or her office upon the taking of the oath of office by his or her successor. If the officer is recalled, the candidate for succession receiving the highest number of votes at the election determined in accordance with Article VIII, Section 7, shall be declared elected for the remainder of the incumbent's term.
- (e) The candidate elected shall take office upon taking the oath of office, which shall occur as the first order of business at the next regular or special Council meeting [after certification of the election results](#). In case the candidate elected fails to qualify ~~within by no later than sixty (60) thirty working~~ days after the issuance of a certificate of election, the candidate with the next highest vote shall be elected, and if there is no other elected successor who qualifies, the office shall be deemed vacant, and shall be filled by appointment by the remaining members of the Council, as provided in Article II, Section 18.

Commented [CD5]: This references the RCV provisions.

(Ord. No. 199, 1986, § 1, Part A, § 3, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Parts V, W, X, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 006, 2015, § 1, 1-20-15, approved, election of 4-7-15 ; Ord. No. 080, 2022 , § 2, 7-5-22, approved, election 11-8-22)

Section 4. Further regulations.

The Council may, by ordinance, make such further rules and regulations as are consistent with this Charter and the Colorado Constitution in order to carry out the provisions of this Article.

(Ord. No. 199, 1986, § 1, Part A, § 4, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97)

## ARTICLE X. INITIATIVE AND REFERENDUM

### Section 1. The initiative.

- (a) Power. The registered electors of the city shall have the power at their option to propose ordinances or resolutions to the Council, and, if the Council fails to adopt a measure so proposed, to adopt or reject such ordinance or resolution at the polls. The procedure for initiative shall be as provided in this Article.
- (b) Commencement of proceedings; notice. One (1) or more registered electors may commence initiative proceedings by filing with the City Clerk a written notice of intent to circulate an initiative petition. The notice commencing proceedings shall contain the full text of the proposed ordinance or resolution and shall state whether a special election is requested. After such notice has been filed, the City Clerk shall approve the petition for circulation in accordance with Section 5(b) of this Article. The petition shall be circulated, signed, verified, and filed in the manner prescribed in Section 5 of this Article.
- (c) Number of signatures required. The petition must be signed by registered electors of the city equal in number to at least ten (10) percent of the total ballots cast in the last regular city election, except when a special election is requested by the petitioners, the petition must be signed by registered electors equal in number to at least fifteen (15) percent of the total ballots cast in the last regular city election.
- (d) Petition deadlines. The initiative petition shall be filed no ~~more later~~ than sixty ~~three~~ (60) calendar days after the City Clerk's approval of the form for circulation. Unless a special election is requested, the petition must also be filed at least ~~ninety-one hundred and forty~~ (1490) days prior to the next regular city election. If the petition requests a special election in conjunction with a Larimer County Coordinated or General Election, the City Clerk shall establish a submittal deadline for the petition that will enable the measure to be considered at such election, which deadline shall be consistent with all pertinent provisions of the Colorado Revised Statutes governing the conduct of such elections, and, if applicable, with Article X, Section 20 of the Colorado Constitution, and shall advise the petition representatives in writing as to the submittal deadline.

#### ~~(e)~~(e) Action by Council.

(1) Upon presentation of an initiative petition certified as sufficient by the City Clerk, the Council shall within thirty-five (35) calendar days either (1) adopt the proposed ordinance or resolution without alteration within thirty (30) days, or (2) submit such proposed measure, in the form petitioned for, to the registered electors of the city as provided in this subsection; ~~provided, however, that~~

a. In the case of ~~aif the~~ proposed measure that requires voter approval in advance under Article X, Section 20 of the Colorado Constitution, alternative (1) above shall not be available to the Council and the proposed measure shall instead be submitted to a vote of the registered electors. If the initiative petition proposing such a measure requests a special election, the proposed measure shall be submitted to a vote of the registered electors at a special election on the first possible date permitted by Article X, Section 20 of the Colorado Constitution. If a special election is not requested, the proposed measure shall be submitted to a vote of the registered electors at the next regular city election.

b. In the case of a proposed measure that does not require voter approval in advance under Article X, Section 20 of the Colorado Constitution, the proposed measure, if not adopted by the Council under alternative (1) above, shall be submitted to a vote of the registered electors at the next regular city election or, if the initiative petition proposing such measure requests a special election, the proposed measure shall be submitted to a vote of the registered electors at a special election to be called by the Council within one hundred twenty ~~six~~ (120) six (120) days of the presentation of the

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certified petition to the Council, unless any ~~other-subsequent~~ regular or special city election is to occur within ~~said period~~ **two hundred ten (210) calendar days**, in which case the proposed measure shall be submitted at such ~~other-later~~ regular or special city election.

(f) All ordinances submitted to the Council by initiative petition and adopted by Council without the vote of the electors shall be subject to the referendum in the same manner as other ordinances.

(Ord. No. 6, 1980, 1-16-80, approved, election 2-26-80; Res. No. 83-22, 1-18-83, approved, election 3-8-83; Ord. No. 199, 1986, § 1, Part B, § 1, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 21, 1993, § 1, 2-16-93, approved, election 4-6-93; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 127, 1999, § 1, 8-17-99, approved, election 11-2-99; Ord. No. 101, 2002, § 1, 8-20-02, approved, election 11-5-02; Ord. No. 004, 2015, § 1, 1-20-15, approved, election of 4-7-15 )

### Section 2. The referendum.

- (a) Power. The registered electors of the city shall have the power at their option to approve or reject at the polls, any ordinance, or portion of ordinance, adopted by the Council, except ordinances making the annual property tax levy, making the annual appropriation, calling a special election, or ordering improvements initiated by petition and to be paid for by special assessments.
- (b) Commencement of proceedings.
  - (1) One (1) or more registered electors may commence referendum proceedings by filing with the City Clerk **within ten (10) calendar days after final** passage of the ordinance in question, a notice of protest against the going into effect of the ordinance. The notice shall be brief and need not state any reasons, but shall identify the ordinance or part thereof, or code section it proposes to have repealed.
  - (2) **Not later than ten (10) working days after the filing** of the notice, the proponents shall present to the City Clerk the final form for the referendum petition conforming to the requirements of the Article.
  - (3) If the notice and petition form are timely presented, the City Clerk shall approve the petition form for circulation, in accordance with Section 5(b) of this Article.
  - (4) The petition shall be circulated, signed, verified, and filed in the manner prescribed by Section 5 of this Article.
- (c) Number of signatures required. The petition must be signed by registered electors of the city equal in number to at least ten (10) percent of the total ballots cast in the last regular city election.
- (d) Petition deadlines. The referendum petition shall be **filed within no later than twenty-one (21) calendar days after** the City Clerk's approval of the petition for circulation. If a completed petition is not ~~subsequently~~ filed within the requisite time after the City Clerk's approval of the petition for circulation, the referendum effort is null and void and the petition shall not be circulated further.
- (e) Action by Council.
  - (1) The City Clerk's certification of a petition as sufficient for referendum automatically suspends the operation of the ordinance in question, ~~or portion sought to be repealed~~, pending repeal by Council or final determination by the electors.
  - (2) **Following receipt of the City Clerk's certification of a petition as sufficient for referendum, t**The Council shall ~~either refer the ordinance or portion thereof that is the subject of the petition to the voters, as set forth below, or~~ reconsider the ordinance at the next regular meeting of the Council, or at an earlier special meeting of the Council called for this purpose, ~~following the receipt of the certification of the petition by the City Clerk,~~ and ~~shall~~ adopt an ordinance to repeal the ordinance in question, or part sought to be repealed, on first reading, with second reading ~~no later than~~ **at** the next regular meeting.

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- (3) If the ordinance, or that part sought to be repealed, is not repealed ~~by final action on such repealing ordinance~~, the Council must refer the same to a vote of the registered electors at the next regular or special city election scheduled for any other purpose. Alternatively, the Council may call a special election for that specific purpose.

(Ord. No. 6, 1980, 1-16-80, approved, election 2-26-80; Ord. No. 199, 1986, § 1, Part B, § 2, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 127, 1999, § 1, 8-17-99, approved, election 11-2-99; Ord. No. 102, 2023, § 2, 8-15-23, approved, election 11-7-23)

### Section 3. Council use of initiative and referendum.

The Council may submit any question or proposed ordinance or resolution, or refer any adopted ordinance or resolution, to the vote of the people at a regular or special election to be conducted in accordance with the provisions of [fill in correct cross reference] ~~in the same manner and with the same force and effect as is provided for citizen initiated and referred measures.~~

(Ord. No. 6, 1980, 1-16-80, approved, election 2-26-80; Res. No. 83-22, 1-18-83, approved, election 3-8-83; Ord. No. 199, 1986, § 1, Part B, § 3, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97)

### Section 4. Repeal or amendment of initiated measure.

An initiated measure submitted to the registered electors of the city by the Council, with or without a petition therefor, and adopted by electoral vote cannot be repealed or amended except by a subsequent electoral vote. This provision shall not apply to ordinances or resolutions adopted by the City Council and referred to the voters.

(Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97)

### Section 5. Petitions.

- (a) Separate petitions required. A separate petition shall be circulated and filed for each measure sought to be initiated or referred to the vote of the electors.
- (b) Form and content.
- (1) Approval of form for circulation.
- a. No petition shall be circulated until the City Clerk has approved the form for circulation.
  - b. The City Clerk shall first determine that the petition form contains only the matters required by this Article.
  - c. The Council shall prescribe by ordinance, upon recommendation of the City Clerk, a general form of petition which shall contain warnings and notices to signers as necessary.
  - d. The City Clerk's approval under this Section shall not constitute an approval of the content of the petition, but rather, shall start the running of the time periods provided for circulation and filing of petitions.
- (2) Petition content.
- a. The petition shall be addressed to Council.

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- b. An initiative petition shall contain or have attached to each section throughout its circulation the full text of the proposed ordinance or resolution and shall contain a general statement of purpose prepared by the City Clerk in consultation with the City Attorney to fairly and accurately summarize the proposed ordinance or resolution, without argument or prejudice, and indicating that the petition is to be circulated in support of the initiated ordinance or resolution and specifying whether a special election is requested.
- c. A referendum petition shall contain or have attached to each section throughout its circulation the full text of the ordinance sought to be referred, without any exhibits that may be a part of said ordinance, clearly identifying the protested portions if only a partial repeal is sought. In the case of ~~bond ordinances~~ an ordinance exceeding two (2) pages in length, the full text of the ordinance need not be set forth but the petition shall contain or have attached to each section throughout its circulation the title and a fair and accurate summary of the ordinance in question ~~as~~ prepared by the City Clerk in consultation with the City Attorney.
- (3) Signatures.
- a. Only registered electors may sign the petitions authorized under this Article.
- b. Each signer must sign his or her own signature and each signature shall be followed by the printed name of the signer, the street and number address of his or her residence, and the date of signing.
- c. No person shall knowingly sign an initiative or referendum petition more than once.
- d. In the event that the signature of any person appears more than once on a petition authorized under this Article, the first signature verified shall be counted and all other signatures of that person shall be rejected.
- (c) Circulation of petition.
- (1) The petition may be circulated and signed in sections with each section consisting of one (1) or more sheets securely fastened at the top, provided that each section contains a full and accurate copy of the text of the petition and the names and addresses of the designated representatives for the petition.
- (2) All sections shall be filed at the same time as one (1) instrument.
- (3) Only persons eighteen (18) years of age or older may circulate the petition for signatures.
- (4) The circulation of any petition by any medium other than personally by a circulator is prohibited. No person shall receive any compensation whatever for signing an initiative or referendum petition.
- (d) Affidavit of circulator.
- (1) ~~The A-circulator of a shall attach to each petition section of the petition circulated an shall sign under oath before a notary public the affidavit of circulator attached at the end of the petition section signed by the circulator under oath before a notary public~~ stating the following:
- (i) the circulator's address of residence;
- (ii) that the circulator is eighteen (18) years of age or older;
- (iii) that he or she personally circulated the section;
- (iv) that each signature was affixed in the circulator's presence;
- (v) that to the best of the circulator's knowledge and belief each signer was at the time of signing a registered elector of the city;

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- (vi) that to the best of the circulator's knowledge and belief each signature is the genuine signature of the person whose name it purports to be;
  - (vii) that each signer had an opportunity before signing to read the full text of the petition; and
  - (viii) that the circulator has not paid or offered to pay any money or other thing of value to any signer for the purpose of inducing or causing the signer to affix his or her signature to the petition.
- (2) A petition verified by the valid affidavits of its circulators in each of its sections shall be prima facie evidence that the signatures thereon are genuine and true.
- (e) Time limits; petition representatives. Petitions for initiative and referendum shall be filed with the City Clerk within the requisite time limits or they will be deemed null and void. Each petition shall designate by name and address ~~not less than three (3) nor more than five (5)~~ registered electors who shall represent the signers of the petition in all matters affecting the petition.
- (f) Sufficiency of petition; ~~amendment~~.
- (1) Examination. ~~Within fifteen (15) working days~~ of the filing of a petition the City Clerk shall ascertain by examination of the petition and ~~the voter~~ registration ~~books-records~~ whether the petition is signed by the requisite number of registered electors and contains the required particulars and affidavits. If the petition is insufficient, the City Clerk shall so certify and forthwith notify all of the designated petition representatives in writing, specifying the particulars of insufficiency.
- (2) Insufficient petition; ~~amendment~~.
- (i) If an initiative petition is deemed insufficient, whether following the initial determination by the City Clerk, or following protest proceedings, it may be amended by the submission of additional signatures collected after the City Clerk approved the form of the petition and ~~within fifteen (15) no later than fourteen (14) calendar days from after the filing of~~ the Clerk's ~~issuance of the~~ certificate of insufficiency.
- (A) Such signatures must be collected consistent with the requirements for collecting petition signatures as described in this Article.
- (B) ~~Within ten (10) working days~~ after such amendment, the City Clerk shall make examination of the amended petition and certify the result.
- (C) If the amended petition is still insufficient, or if no amendment was made before the expiration of the time permitted for amendment, the petition shall be null and void without prejudice to the filing of a new petition for the same purpose.
- (ii) If a referendum petition is deemed insufficient, it may be amended by the submission of additional signatures collected consistent with the requirements of this Article, but to be considered, any additional signatures must be submitted within the ~~original~~ ~~twenty-one (21) calendar~~ day circulation period after the City Clerk's approval of the petition form for circulation.
- (A) Such signatures must be collected consistent with the requirements for collecting petition signatures as described in this Article.
- (B) Within ~~five (5) ten (10) working~~ days after such amendment, the City Clerk shall make like examination of the amended petition and certify the result.
- (C) If the amended petition is still insufficient, or if no amendment was made before the expiration of the time permitted for amendment, said referendum petition is null and void and a new petition may not thereafter be filed for referendum of the same ordinance.

## APRIL ELECTION CODE COMMITTEE DRAFT FOR DISCUSSION

- (3) Protests.
- (i) Registered electors desiring to protest a determination by the City Clerk that a petition is either sufficient or insufficient may file a written protest, under oath, in the office of the City Clerk within ~~ten (10)~~ five (5) working days of the ~~filing of City Clerk's preliminary determination as to sufficiency of~~ the petition. The protest shall set forth with particularity the grounds of protest and ~~the names any signatures~~ and related defects in form protested.
  - (ii) Upon the filing of a protest, the City Clerk shall send a copy of the protest to the designated petition representatives, the City Council and the City Manager. The City Manager shall appoint a hearing officer, who, in conjunction with the City Clerk, shall set a time for hearing such protest, which shall be no more than ~~seven (7)~~ ten (10) working days thereafter.
  - (iii) At least five (5) working days prior to before the hearing, the City Clerk shall send a notice of the date, time and time location for the hearing and a copy of the protest ~~mail a copy of the protest~~ to all of the designated petition representatives, the person(s) who filed the protest, and the City Council. together with a notice of the time for hearing.
  - (iv) All protest hearings shall be before a hearing officer appointed by the City Manager. The hearing officer who shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents.
  - (v) All records and hearings shall be public, and all testimony shall be under oath.
  - (vi) The hearing shall be summary in nature and concluded within no later than thirty twenty-five (3025) working days after the ~~petition protest~~ was filed.
  - (vii) The hearing officer shall decide and certify the results of the hearing within no later than ten (10) working days after the hearing is concluded, and no further protest regarding the petition may be filed.
  - (viii) The City Clerk shall make any final determination regarding the sufficiency or insufficiency of a petition and shall base such determination on the protest hearing results certified-issued by the hearing officer.
  - (ix) A petition for referendum that which has been deemed insufficient after protest may not be amended or circulated further and no further protest regarding the petition may be filed.
- (4) Certification and presentation to Council. When and if a petition or amended petition is deemed sufficient, whether following the sufficiency determination by the City Clerk in the absence of a protest, or following protest proceedings, the City Clerk shall so certify and then present the certified petition to the Council at the next regularly scheduled meeting or special meeting called for this purpose. The City Clerk's certificate shall ~~then be a~~ the final determination as to the sufficiency of the petition.

(Res. No. 83-22, 1-18-83, approved, election 3-8-83; Ord. No. 199, 1986, § 1, Part B, § 4, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 158, 1988, 12-20-88, approved, election 3-7-89; Ord. No. 21, 1993, § 1, 2-16-93, approved, election 4-6-93; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 88, 2000, § 1, 8-15-00, approved, election 11-7-00; Ord. No. 004, 2015, § 1, 1-20-15, approved, election of 4-7-15 ; Ord. No. 102, 2023 , § 2, 8-15-23, approved, election 11-7-23)



## Section 6. Elections.

- (a) Generally. Elections on initiative and referendum measures shall be conducted in the same manner as provided generally for regular or special city elections in this Charter.
- (b) Ballots. Upon ordering an election on any initiative or referendum measure, the Council shall, after public hearing, adopt by resolution a ballot title and submission clause for each measure. The ballot title shall contain information identifying the measure as a city initiated or citizen initiated measure. The submission clause shall be brief, shall not conflict with those selected for any petition previously filed for the same election, and shall unambiguously state the principle of the provision sought to be added. The official ballot used when voting upon each proposed or referred measure shall have printed on it the ballot title and submission clause and shall contain the words, "Yes/For" and "No/Against" in response to each measure.
- (c) Publication; notice of election.
- (1) Initiative. An initiated measure being considered for adoption by Council shall be published in like manner as other proposed ordinances and resolutions. If the initiated measure is submitted to a vote of the people, the City Clerk shall publish a notice of election in conformity with the laws of the State of Colorado relating to municipal elections, together with the ballot title, submission clause and full text of the proposed ordinance or resolution. The text of a successful initiative measure need not be published in full after the election.
  - (2) Referendum. If the referred measure is to be submitted to a vote of the people, the City Clerk shall publish a notice of election in conformity with the laws of the State of Colorado relating to municipal elections, together with the ballot title, submission clause and full text of the referred ordinance, specifying the portion to be referred if only a portion of the ordinance has been referred. If the ordinance in question ~~is a bond ordinance exceeds two (2) pages in length~~, the summary from the petition may be published in place of the full text. The City Clerk will make the full text of a referred ordinance, together with all exhibits, generally available to the public. The full text of an ordinance passed on referendum need not be published after the election.
- (d) Election results. If a majority of the registered electors voting on the initiated measure vote in favor, the measure is adopted as an ordinance or resolution of the city upon certification of the election results. If a majority of the registered electors voting on a referred ordinance, vote in favor of the referred ordinance, or referred portion of the ordinance, such referred ordinance or portion thereof shall go into effect without further publication upon certification of the election results, or at such later date as may be set forth in the ordinance itself. If the provisions of two (2) or more proposed or referred measures adopted or approved at the same election conflict, the measure receiving the highest affirmative vote shall become effective.
- (e) Frequency of elections. Any number of proposed ordinances or resolutions or referred ordinances may be submitted at the same election. Not more than one (1) special election on citizen-initiated measures shall be held in any twelve (12) months. This limitation does not apply to the Council which on its own motion may at any time call a special election for the purpose of considering any measure initiated, or adopted and referred, by the Council.

(Res. No. 83-22, 1-18-83, approved, election 3-8-83; Ord. No. 199, 1986, § 1, Part B, § 5, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 004, 2015, § 1, 1-20-15, approved, election of 4-7-15 )



**Section 7. Further regulations.**

The Council may, by ordinance, make such further rules and regulations as are consistent with this Charter and the Colorado Constitution in order to carry out the provisions of this Article.

(Res. No. 83-22, 1-18-83, approved, election 3-8-83; Ord. No. 199, 1986, § 1, Part B, § 6, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97)

April 24, 2024

# Elections Code Committee

# Charter Amendments

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**Heather Walls, Interim City Clerk**  
**Carrie Daggett, City Attorney**



## Discussion / Informational Items

1. Charter Amendments
2. 2024 Work Plan

## Article VIII. ELECTIONS

- Section 3 – Time frame for circulation and submittal of nominating petitions shall not be changed within 180 days.
- Section 4 – Sufficiency of petition notification within 5 working days.
- Section 7 – Timing relating to certification of election results.

## Article IX. RECALL

- Section 1(b) – Specify timeframe Clerk will send affidavit to affected officer; increase time to file statement in defense of charges from 5 to 10 days; revise language related to timing to file petition.
- Section 1(c) – Update various timing requirements to call election.
- Section 2(b) – Move section portion of section 2(f) to new section 2(b)(3) to designate the number of petition representatives allowed.
- Section 2(e)(1) – Remove holdover language from when we had multiple seats elected in the same race.
- Section 2(f) – Update timing to file petitions.
- Section 2(g) & (h) – This paragraph is broken up into subsections and new subsection relating to Protest added.
- Section 2(i) – Naming the section Certification and presentation to Council and adding special meetings as possibility for certification.
- Change name of Section 3 to Recall Elections from Elections.
- Section 3(e) – Clarify the newly elected candidate will take office at the next regular meeting after the election is certified; candidate qualification within 30 days of certification.

## Article X. INITIATIVE AND REFERENDUM

- Section 1(d) – Update timing to file prior to next election.
- Section 1(e) – Paragraph broken into subsection areas; Various timing and language updates
- Section 2(b) – Clarification of timing.
- Section 2(d) – Update timing to circulate to 21 calendar days.
- Section 2(e)(2) – Clarifying language relating to Action by Council after petition certification.
- Section 3 – Revision to language relating to referring an ordinance or resolution to the voters.

## Article X. INITIATIVE AND REFERENDUM

- Section 5(b)(2)(b) – Updates relating to general statement of purpose on initiative petition.
- Section 5(b)(2)(c) – Add language to not include exhibits over a certain number of pages with the ordinance to be referred and include a statement from the Clerk where said exhibit may be found. Also, consideration of ordinances themselves over a certain number of pages.
- Section 5(d)(1) – Clarifying language relating to the required information on the circulator affidavit.
- Section 5(f)(1) – Revise the number of days the Clerk has to examine the petition to 15 calendar days.
- Section 5(f)(2)(i)(B) – Revise number of days the Clerk has to examine an amended initiative petition to 10 days.
- Section 5(f)(2)(ii)(B) – Update time to certify amended referendum petition to 10 days.
- Section 5(f)(3)(i) – Revise the number of days to file a protest to 5 business days of preliminary determination of sufficiency.
- Section 5(f)(3)(ii) – Revise language relating to the protest hearing and the time frame to hold the protest hearing.
- Section 5(f)(3) – Revise language and timing relating to the notice of protest hearing.
- Section 6(c)(2) – Additional language relating to a portion of an ordinance being referred rather than the entire ordinance.



# 2024 Work Plan



# ELECTION CODE COMMITTEE

## 2024 WORK PLAN

|  | <b>Committee Discussion</b>             | <b>Council Meetings</b>   | <b>Scheduling Notes</b>  |
|--|---|---|--|
| 1. Charter Amendments for November 2024 Ballot | April and May Committee Meetings        | 1 <sup>st</sup> Reading June 18<br>2 <sup>nd</sup> Reading July 2                                   | Summer Break – 7/23 – 8/6  |
| 2. Campaign Finance                            | August and September Committee Meetings | October 8 Work Session<br>1 <sup>st</sup> Reading November 4<br>2 <sup>nd</sup> Reading November 18 | Budget session #3 on October 8 tends to be shorter so a possible option for a work session on 10/8 - best to get done during 2024 due to timing of election activities for November 2025 |
| 3. Education for Ranked Choice Voting          | January and February Committee Meetings | March Work Session<br>Council TBD   | Winter Break 12/18 – 1/4   |
| 4. Oversight Committee                         |   |   |  |
| 5. Public Financing of Campaigns               |   |   |  |
|  |   |   |  |

Section F, Item 3.